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## Transportation Committee

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### HB 1688

**Brief Description:** Concerning payments to tow truck operators for the release of vehicles to indigent citizens.

**Sponsors:** Representatives Hackney and Barkis.

#### Brief Summary of Bill

- Directs the Department of Licensing (DOL) to create a program to compensate registered tow truck operators (RTTOs) for the cost of towing, storage, and other services incurred during the towing of an indigent person's vehicle when the tow was done at the direction of law enforcement not following an arrest.
- Requires the eligibility of the program to be based on self-certification of eligibility by both the individual seeking the release of a vehicle from impound and the RTTO on a form to be provided by the DOL.
- States that a RTTO must release the vehicle upon the completion of the form by the RTTO.

**Hearing Date:** 2/15/23

**Staff:** Michael Hirsch (786-7195).

#### **Background:**

##### Towing and Impounds.

Registered tow truck operators (RTTOs) who impound vehicles from private or public property, or tow for law enforcement agencies, are regulated by the Department of Licensing (DOL). Impoundment is defined as the taking and holding of a vehicle in legal custody without the consent of the owner, and may only be performed by RTTOs. Registered tow truck operators

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may impound, transport, and store unauthorized vehicles and dispose of abandoned vehicles.

#### Registered Tow Truck Operator's Lien.

A RTTO who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid.

#### Notice of Impound and Redemption.

When an unauthorized vehicle is impounded, within 24 hours the RTTO must send an impound notice to the legal owner, based on information received from law enforcement. After being held for 120 consecutive hours, a vehicle is considered abandoned and the RTTO must file an abandoned vehicle report with the DOL. In response to the abandoned vehicle report, the DOL provides information to the RTTO regarding the owner of the vehicle. Within 24 hours of receipt of this information, the RTTO must send by certified mail a notice of custody and sale to the owner. The RTTO must give written notice of their right of redemption and opportunity for a hearing as well as the form for requesting a hearing, information on the person or agency that authorized the impound, and the towing and storage costs to any person who seeks to redeem an impounded vehicle. A vehicle may be redeemed by the legal owners any time before the start of the auction upon payment of towing and storage charges.

#### Abandoned Vehicle Auction.

If a vehicle remains unclaimed, the RTTO must conduct a sale of the vehicle at public auction. The RTTO may not hold a vehicle for longer than 90 days without holding an auction on the vehicle, except in the case of a law enforcement or judicial order.

If the monies from the sale of a vehicle at auction is more than the RTTO's lien on the vehicle, any monies in excess of the lien must be remitted to the DOL. The remitted monies from the sale of a vehicle may be claimed by the registered owner of record for up to one year from the date of the auction. If the amount bid at auction is less than the RTTO's lien on the vehicle, the RTTO is allowed a deficiency claim against the registered owner of an impounded vehicle of up to \$500 for vehicles less than or equal to 10,000 pounds gross vehicle weight. For vehicles over 10,000 pounds gross vehicle weight, a RTTO is allowed a deficiency claim of up to \$1,000. If a RTTO receives no bid at auction, or if the RTTO is the successful bidder at auction, the RTTO must either sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor or apply for title to the vehicle within 45 days.

#### **Summary of Bill:**

The DOL is required to create a program to compensate the RTTOs for the cost of towing, storage, and other services incurred by a RTTO for the towing of the vehicles of indigent persons in some circumstances. The DOL must provide a form to RTTOs on which an individual seeking the release of the vehicle self-certifies that they are eligible under the program and the RTTO self-certifies that the impound is eligible under the program.

### Vehicle Owner Eligibility.

The individual must fill out the first part of the form on which they must self-certify under penalty of perjury that they:

- are the legal or registered owner of the vehicle;
- are indigent;
- do not have the ability to pay for the towing service or that making such payment would be a severe hardship; and
- have not applied for the release of a vehicle under this program more than once in the preceding year.

The individual submits the form to the RTTO.

### Impound Eligibility.

The RTTO fills out the second part of the form. Operators must self-certify under penalty of perjury that they have verified that:

- the impound was ordered by a law enforcement agency;
- the impound was not ordered following an arrest; and
- the individual seeking the release of a vehicle is the owner of the vehicle registered or titled with the DOL.

### Process.

Once the form is completed by the RTTO must release the vehicle to the applicant and no longer has a lien or deficiency claim on the vehicle.

Following submission of the form by the RTTO and subject to the availability of funds, the DOL is required to disburse funds to the eligible RTTO in an amount equal to the cost of the tow, storage, or other services incurred by the RTTO during the course of the law enforcement directed impound. Available funds are the remitted monies that all RTTOs send to the DOL following a vehicle auction where a vehicle was sold for a price greater than the RTTO's lien on the vehicle and which the DOL has had for more than a year. Any request for payment is not an entitlement. If, at any time, funds do not exist to reimburse claims that have been submitted under this new provision, the DOL must create a waitlist for claims. The DOL is not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement. The DOL must provide an annual report to the appropriate committees of the Legislature each year on the activities of the program.

### Notice of Impound and Redemption.

If a vehicle may be eligible under this program, the RTTO must:

- include information about this program in the initial impound notice, and
- provide to individuals seeking to redeem an impounded vehicle written notice of this program along with the form for the release of the vehicle under this program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.